

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	<u>INDICTMENT</u>
- v. -	:	
	:	S1 00 Cr. 1169 (RMB)
MICHAEL A. ROBLES,	:	
	:	
Defendant.	:	
-----x	:	

The Grand Jury charges:

COUNT ONE

(Conspiracy to Commit Fraud in Connection
with the Purchase and Sale of Securities
and Fraud in Connection With Tender Offers)

Introduction

1. At all times relevant to this Indictment, NationsBank Corp. was a bank holding company organized under the laws of the State of North Carolina. NationsBank Corp. was headquartered in Charlotte, North Carolina, and was engaged in the business of banking through offices located throughout the United States and elsewhere, including in Dallas, Texas. Among other things, NationsBank Corp. was in the business of extending credit to various clients for a variety of purposes, including to finance mergers and acquisitions.

2. At all times relevant to this Indictment, Richard A. Svoboda, a co-conspirator not charged as a defendant herein, was employed as a credit policy officer for NationsBank N.A. ("NationsBank"), a wholly owned subsidiary of NationsBank Corp. In

that capacity, Svoboda had access to confidential, material, non-public information of NationsBank and its clients.

3. At all times relevant to this Indictment, MICHAEL A. ROBLES, the defendant, was a self-employed certified public accountant in Dallas, Texas. ROBLES and Richard A. Svoboda were life-long friends.

**NationsBank Policies Concerning Confidentiality
and the Prohibition Against Insider Trading**

4. By no later than in or about June 1995, NationsBank's written "General Policy on Insider Trading" was provided to all NationsBank employees and stated, among other things, that:

No director or associate of NationsBank may trade in any security, either personally, or for or on the behalf of others, including propriety or fiduciary accounts of NationsBank, while in possession of Inside Information relating to such security, or communicate or disclose, in any manner, Inside Information to others in violation of a duty to keep it confidential. (emphasis omitted)

* * *

Inside information about a company generally should not be disclosed or disseminated to others either within or outside the NationsBank organization, absent a reasonable need to know that furthers a legitimate business purpose of NationsBank or the subject company. Unlawfully disclosing or "tipping" information about a company to others who then trade while in possession of the information may give rise to claims against the person tipping the information.

5. During 1996 and 1997, NationsBank conducted a company-wide revision of its compliance procedures with respect to employee securities transactions to require that employees pre-clear all trades with, and disclose all new securities accounts and trading activity to, NationsBank's Corporate Compliance Department. These revised compliance procedures were applied to Richard A. Svoboda, a co-conspirator not charged as a defendant herein, in or about March 1997.

6. In addition, in or about April 1997, NationsBank revised its policy concerning confidential information. This revised policy, which was provided in written form to all NationsBank employees, stated as follows:

Associates are responsible for maintaining the integrity of confidential information learned during the course of employment with the firm
....

All material nonpublic information and confidential information obtained by an associate during the course of employment with the firm must remain confidential and should be used only for the business purpose it was communicated.

ROBLES' Trading Accounts

7. At all times relevant to this Indictment, MICHAEL A. ROBLES, the defendant, maintained securities brokerage accounts at Charles Schwab & Co. or Fidelity Investments, securities broker-dealers that provided discount brokerage services to individual investors. In addition, at various times relevant to this Indictment, ROBLES maintained discretionary trading authority over

securities brokerage accounts maintained by four of his accounting clients.

The NationsBank Clients

8. At all times relevant to this Indictment, and as part of its banking business, NationsBank extended credit to various clients for a variety of purposes. As required by agreements incident to those extensions of credit, and in order to permit NationsBank to assess the safety and profitability of its extensions of credit, the clients provided NationsBank with confidential, material, nonpublic information ("Inside Information") concerning, among other things, their business operations and future plans.

9. In connection with extensions of credit to certain NationsBank clients listed below (the "NationsBank Clients"), those clients provided Nationsbank with Inside Information concerning financial performance, expected earnings, or actual or potential corporate mergers or acquisitions, prior to the public announcement of such information. The names of certain clients relevant to this Indictment and the nature of the information provided to NationsBank are summarized, as set forth below:

NATIONSBANK CLIENT	TARGET OR OFFEROR	NATURE OF INFORMATION	DATE OF PUBLIC ANNOUNCEMENT
Moorco International ("Moorco")	Daniel Industries ("Daniel")	Moorco seeks to acquire Daniel	03/07/95

NATIONSBANK CLIENT	TARGET OR OFFEROR	NATURE OF INFORMATION	DATE OF PUBLIC ANNOUNCEMENT
Arkansas Best Corp. ("Arkansas Best")	Worldway Corp. ("Worldway")	Arkansas Best to acquire Worldway	07/10/95
Proffitt's Inc. ("Proffitt's") and Younkers, Inc. ("Younkers")	Younkers	Proffitt's to acquire Younkers	10/23/95
NPC International, Inc. ("NPC")	NPC	NPC announces a proposed management buyout of NPC	11/06/95
The Rival Company ("Rival")	Bionaire, Inc. ("Bionaire")	Rival announces discussions with Bionaire regarding possible acquisition	02/28/96
Ivax Corp. ("Ivax")	N/A	Ivax and Bergen Brunswig agree to merge	11/11/96
PCA International, Inc. ("PCA")	American Studios, Inc. ("American Studios")	PCA to acquire American Studios	11/25/96
Vencor, Inc. ("Vencor")	TheraTx, Inc. ("TheraTx")	Vencor to acquire TheraTx	02/10/97
Mediq, Inc. ("Mediq")	Universal Hospital Services, Inc. ("Universal Hospital")	Mediq to acquire Universal Hospital	02/11/97
Vencor	Transitional Hospitals Corp. ("Transitional Hospitals")	Vencor to acquire Transitional Hospitals	05/07/97

NATIONSBANK CLIENT	TARGET OR OFFEROR	NATURE OF INFORMATION	DATE OF PUBLIC ANNOUNCEMENT
Riddell Sports, Inc. ("Riddell")	Varsity Spirit Corp. ("Varsity Spirit")	Riddell Sports to acquire Varsity Spirit	05/06/97
Anthem Insurance Companies, Inc. ("Anthem") and Acordia Industries ("Acordia")	Acordia	Anthem announces possible acquisition of Acordia	05/20/97
Sun Healthcare Group, Inc. ("Sun Healthcare")	Regency Health Services ("Regency")	Sun Healthcare to acquire Regency	07/27/97
Petsmart, Inc. ("Petsmart")	N/A	Petsmart announces lower than expected earnings	08/07/97
Pillowtex Corp. ("Pillowtex")	Fieldcrest Cannon, Inc. ("Fieldcrest")	Pillowtex to acquire Fieldcrest	09/11/97
Marshall Industries	Sterling Electronics Corp. ("Sterling Electronics")	Marshall Industries to acquire Sterling Electronics	09/19/97
Suiza Foods Corp. ("Suiza Foods")	Morningstar Group, Inc. ("Morningstar")	Suiza Foods to buy Morningstar	09/29/97
Extendicare, Inc. ("Extendicare")	Arbor Health Care Company ("Arbor")	Extendicare to acquire Arbor	09/30/97
Apria Healthcare Group, Inc. ("Apria Healthcare")	Transworld HealthCare, Inc. ("Transworld")	Transworld submits proposal to acquire Apria Healthcare	10/13/97

NATIONSBANK CLIENT	TARGET OR OFFEROR	NATURE OF INFORMATION	DATE OF PUBLIC ANNOUNCEMENT
Credit Acceptance Corp. ("Credit Acceptance")	N/A	Credit Acceptance announces a net loss of \$27.7 million for the quarter	10/22/97
Kevco, Inc. ("Kevco")	Shelter Components Corp. ("Shelter Components")	Kevco to acquire Shelter Components	10/22/97
Dal-Tile International, Inc. ("Dal-Tile")	N/A	Dal-Tile announces operating loss of \$10.6 million before charges and a reported loss of \$81.0 after taking into account previously announced charges	11/05/97
MascoTech, Inc.	TriMas Corp. ("TriMas")	MascoTech to acquire TriMas	12/11/97
Heilig-Meyers Company ("Heilig-Meyers")	N/A	Heilig-Meyers reports third quarter net loss of \$49.1 million	12/17/97
O'Reilly Automotive, Inc. ("O'Reilly Automotive")	Hi-Lo Automotive, Inc. ("Hi-Lo Automotive")	O'Reilly Automotive to acquire Hi-Lo Automotive	12/23/97

The Insider Trading Scheme

10. As a Nationsbank credit policy officer, Richard A. Svoboda, a co-conspirator not charged as a defendant herein, was responsible for evaluating extension of credit by NationsBank to certain clients, and for assessing credit arrangements with

clients. In carrying out his responsibilities, Svoboda worked closely with NationsBank "client relationship managers" and "credit products officers," who were in frequent contact with the clients. The client relationship managers and credit products officers typically informed Svoboda of any developments that might affect the credit agreements those clients maintained with NationsBank. As a result of his duties and responsibilities, Svoboda had access to Inside Information of NationsBank and its clients, including the NationsBank Clients. In addition, by virtue of his position as a credit policy officer, Svoboda was also able to gain access to Inside Information that clients had provided to other credit policy officers and other NationsBank employees who worked in NationsBank's Dallas, Texas office. Svoboda owed fiduciary and other duties of trust and confidence to both NationsBank and its clients, which required that he maintain the confidentiality of all such Inside Information.

11. From in or about November 1994 through in or about December 1997, Richard A. Svoboda misappropriated Inside Information from NationsBank and the NationsBank Clients, in violation of (a) the fiduciary and other duties of trust and confidence that Svoboda owed to NationsBank and the NationsBank Clients; (b) the expectations of confidentiality of the NationsBank Clients; and (c) NationsBank's written policies regarding the use and safekeeping of confidential and proprietary client information.

Svoboda unlawfully traded on that Inside Information for his own benefit and unlawfully passed the Inside Information he had misappropriated to MICHAEL A. ROBLES, the defendant. Svoboda passed Inside Information to ROBLES both as a gift, because of their close friendship, and with the understanding that ROBLES would use that information to purchase and sell securities, and thereby gain substantial illegal profits, and with the further understanding that ROBLES would share a portion of those profits with Svoboda, all in violation of the law.

12. Between in or about January 1995 and in or about December 1997, MICHAEL A. ROBLES, the defendant, using Inside Information that he knew Richard A. Svoboda had misappropriated in breach of duties of trust and confidence that Svoboda owed to NationsBank and the NationsBank Clients, purchased and sold securities, and thereby received substantial illegal profits, a portion of which he shared with Svoboda, all in violation of the law.

The Conspiracy

13. From in or about November 1994 to in or about December 1997, in the Southern District of New York and elsewhere, MICHAEL A. ROBLES, the defendant, and Richard A. Svoboda, a co-conspirator not charged as a defendant herein, unlawfully, wilfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, (a) to commit securities fraud in violation

of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5, and (b) to commit fraud in connection with tender offers, in violation of Title 15, United States Code, Sections 78n(e) and 78ff, and Title 17, Code of Federal Regulations, Section 240.14e-3(a).

The Objects Of The Conspiracy

14. It was a part and an object of the conspiracy that MICHAEL A. ROBLES, the defendant, and Richard A. Svoboda, a co-conspirator not charged as a defendant herein, unlawfully, wilfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did use and employ manipulative and deceptive devices and contrivances, in violation of Title 15, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would and did operate as a fraud and deceit upon the investing public, NationsBank and certain of its clients, in connection with the purchase or sale of securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

15. It was a further part and an object of the conspiracy that MICHAEL A. ROBLES, the defendant, and Richard A. Svoboda, a co-conspirator not charged as a defendant herein, unlawfully, wilfully and knowingly, did engage in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer, in that after the offering person had taken substantial steps to commence a tender offer, ROBLES, while in possession of material information obtained from Svoboda, which information related to such tender offer and which the defendant knew or had reason to know was nonpublic, and had been acquired directly and indirectly from the offering person, or from persons acting on behalf of the offering person, or the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner or employee or any other person acting on behalf of the offering person or such issuer, purchased and sold such securities to obtain such securities, without first publicly disclosing such information and its source, in violation of Title 15, United States Code, Sections 78n(e) and 78ff, and Title 17, Code of Federal Regulations, Section 240.14e-3(a).

Means And Methods Of The Conspiracy

16. Among the means and methods by which MICHAEL A. ROBLES, the defendant, Richard A. Svoboda, a co-conspirator not charged as a defendant herein, and others known and unknown, would and did carry out the conspiracy were the following:

a. Svoboda misappropriated the Inside Information set forth in Paragraphs 1 through 12 above, in violation of (a) the fiduciary and other duties of trust and confidence that Svoboda owed to NationsBank and the NationsBank Clients; (b) the expectations of confidentiality of the NationsBank Clients; and (c) NationsBank's written policies regarding the use and safekeeping of confidential and proprietary client information.

b. Svoboda disclosed Inside Information that he had misappropriated from NationsBank and the NationsBank clients to ROBLES, with the understanding that ROBLES would use that Inside Information to purchase and sell securities using that Inside Information, and thereby receive substantial illegal profits, a portion of which would be shared Svoboda, all in violation of the law.

c. ROBLES, while in possession of Inside Information that ROBLES knew had been misappropriated by Svoboda in breach of Svoboda's duty to keep such information confidential, purchased and sold securities, and thereby received substantial illegal profits, all in violation of the law.

d. ROBLES provided Svoboda with a portion of the illegal profits gained from ROBLES' trading on the basis of Inside Information by delivering cash to Svoboda, and by charging goods and services for Svoboda on ROBLES' credit card.

e. Svoboda provided funding to ROBLES to facilitate ROBLES' trading activity.

Overt Acts

17. In furtherance of the conspiracy and to effect the unlawful objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about January 6, 1995, in a transaction conducted on the New York Stock Exchange (the "NYSE") in New York, New York, MICHAEL A. ROBLES, the defendant, purchased 1,000 shares of Daniel common stock.

b. On or about June 28, 1995, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 2,000 shares of Worldway common stock.

c. On or about November 3, 1995, ROBLES purchased 6,000 shares of NPC common stock.

d. On or about December 6, 1995, ROBLES sold 6,000 shares of NPC common stock.

e. On or about February 22, 1996, ROBLES purchased 58,000 shares of Bionaire common stock.

f. On or about November 1, 1996, ROBLES purchased 2,000 shares of American Studios common stock.

g. On or about November 8, 1996, in a transaction conducted on the American Stock Exchange (the "AMEX") in New York, New York, ROBLES sold short 10,000 shares of Ivax common stock.

h. On or about January 23, 1997, ROBLES purchased 4,000 shares of Universal Hospital common stock.

i. On or about January 31, 1997, ROBLES purchased 2,900 shares of TheraTx common stock.

j. On or about March 31, 1997, ROBLES purchased 5,000 shares of Varsity Spirit common stock.

k. On or about March 19, 1997, in a transaction conducted on the NYSE in New York, New York, Richard A. Svoboda caused 3,000 shares of Acordia common stock.

l. On or about April 22, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 1,600 shares of Acordia common stock.

m. On or about May 1, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 5,000 shares of Transitional Hospital common stock.

n. On or about July 21, 1997, ROBLES sold 900 shares of Petsmart common stock.

o. On or about July 22, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 6,000 shares of Regency common stock.

p. On or about August 1, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 4,000 shares of Fieldcrest Cannon common stock.

q. On or about August 7, 1997, ROBLES sold short 10,000 shares of Petsmart common stock.

r. On or about August 29, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES sold short 1,100 shares of Dal-Tile common stock.

s. On or about September 8, 1997, in a transaction conducted on the AMEX in New York, New York, ROBLES purchased 1,500 shares of Shelter Component common stock.

t. On or about September 8, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 5,000 shares of Sterling Electronics common stock.

u. On or about September 19, 1997, ROBLES purchased 10,000 shares of Morningstar common stock.

v. On or about September 19, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 6,000 shares of Apria Healthcare common stock.

w. On or about September 26, 1997, ROBLES purchased 1,000 shares of Arbor common stock.

x. On or about October 15, 1997, ROBLES sold short 10,000 shares of Credit Acceptance common stock.

y. On or about December 16, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES sold short 3,400 shares of Heilig-Meyers common stock.

z. On or about December 3, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 5,700 shares of TriMas common stock.

aa. On or about December 22, 1997, in a transaction conducted on the NYSE in New York, New York, ROBLES purchased 10,000 shares of Hi-Lo Automotive common stock.

(Title 18, United States Code, Section 371).

COUNTS TWO THROUGH FOURTEEN

(Fraud in Connection with the
Purchase and Sale of Securities)

The Grand Jury further charges:

18. The allegations contained in paragraphs 1 through 12 and 16 and 17 are repeated and realleged as though fully set forth herein.

19. On or about the dates set forth below, in the Southern District of New York and elsewhere, MICHAEL A. ROBLES, the defendant, unlawfully, wilfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did use and employ manipulative and deceptive devices and contrivances, in violation of Title 15, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would and did operate as

a fraud and deceit in connection with the purchase and sale of securities as specified below:

COUNT	DATE	SECURITIES PURCHASED OR SOLD
TWO	11/08/96	Short sale of 10,000 shares of Ivax common stock
THREE	03/19/97	Purchase of 1,000 shares of Acordia common stock
FOUR	04/22/97	Purchase of 1,600 shares of Acordia common stock
FIVE	05/01/97	Purchase of 5,000 shares of Transitional Hospital common stock
SIX	07/22/97	Purchase of 6,000 shares of Regency common stock
SEVEN	08/01/97	Purchase of 4,000 shares of Fieldcrest Cannon common stock
EIGHT	08/29/97	Short sale of 1,100 shares of Dal-Tile common stock
NINE	09/08/97	Purchase of 1,500 shares of Shelter Component common stock
TEN	09/08/97	Purchase of 5,000 shares of Sterling Electronics
ELEVEN	09/19/97	Purchase of 6,000 shares of Apria common stock
TWELVE	12/03/97	Purchase of 7,500 shares of shares of TriMas common stock
THIRTEEN	12/16/97	Short sale of 3,400 shares of Heilig-Meyers common stock
FOURTEEN	12/22/97	Purchase of 10,000 shares of Hi-Lo Automotive stock common stock

(Title 15, United States Code, Sections 78j(b) & 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
Title 18, United States Code, Section 2).

COUNTS FIFTEEN THROUGH TWENTY-TWO

(Fraud in Connection with Tender Offers)

The Grand Jury further charges:

20. The allegations contained in paragraphs 1 through 12 and 16 and 17 are repeated and realleged as though fully set forth herein.

21. On or about the dates set forth below, in the Southern District of New York and elsewhere, MICHAEL A. ROBLES, the defendant, unlawfully, wilfully and knowingly, did engage in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer, to wit, after the respective offering persons had taken substantial steps to commence tender offers for the securities listed below, ROBLES, while in possession of material information relating to such tender offers, which information ROBLES knew or had reason to know was nonpublic, and had been acquired directly and indirectly from the offering person, or from persons acting on behalf of the offering person, or the issuer of the securities sought or to be sought by such tender offer, or any officer, director, partner or employee or any other person acting on behalf of the offering person or such issuer, purchased and sold such securities, without first publicly disclosing such information and its source, as specified in each count below:

COUNT	DATE	SECURITIES PURCHASED
FIFTEEN	03/19/97	Purchase of 1,000 shares of Acordia common stock
SIXTEEN	04/22/97	Purchase of 1,600 shares of Acordia common stock
SEVENTEEN	05/01/97	Purchase of 5,000 shares of Transitional Hospital common stock
EIGHTEEN	07/22/97	Purchase of 6,000 shares of Regency common stock
NINETEEN	09/08/97	Purchase of 1,500 shares of Shelter Component common stock
TWENTY	09/18/97	Purchase of 6,000 shares of Apria common stock
TWENTY-ONE	12/03/97	Purchase of 5,700 shares of shares of TriMas common stock
TWENTY-TWO	12/22/97	Purchase of 10,000 shares of Hi-Lo Automotive stock common stock

(Title 15, United States Code, Sections 78n(e) and 78ff, and Title 17, Code of Federal Regulations, Section 240.14e-3(a); Title 18, United States Code, Section 2).

FOREPERSON

JAMES B. COMEY
United States Attorney